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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/406,353	09/28/1999	TOM GIAMMARESSI	533/044	1515

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EXAMINER

SENFİ, BEHROOZ M

ART UNIT PAPER NUMBER

2613

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/406,353

Applicant(s)

GIAMMARESSI, TOM

Examiner

Behrooz Senfi

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17 - 24, 26 - 28, 30 - 38, 40 - 42, 44 is/are rejected.
- 7) ☒ Claim(s) 25, 29, 39 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 17 and 30, are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon et al. (US 6,253,375).

Regarding claims 17 and 30, Gordon '375 discloses information distribution system (i.e. fig. 1), provider equipment (i.e. abstract, lines 1+, fig. 1, 102) and subscriber equipment (i.e. abstract, lines 1+, fig. 1, 124) and provider equipment providing information to subscriber equipment via a forward channel (i.e. fig. 1) and subscriber equipment requesting information via a back channel (i.e. fig. 1, abstract, col. 4, lines 65+), determining whether information distribution system has sufficient bandwidth available to provide information requested by a subscriber and providing request information (i.e. fig. 1, 106 and fig. 2, 212), and session manager (i.e. fig. 1, 106), and information server coupled to session manager for providing requested information (i.e. fig. 1, 102).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2613

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18 – 24, 26 – 28, 30 – 38, 40 – 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. (US 6,253,375) in view of Brown (US 5,822,530).

Regarding claims 18 – 19, Gordon '375 discloses information distribution System (i.e. fig. 1), and provider/subscriber equipment and also providing information to subscriber equipment via a forward channel (i.e. abstract, lines 1+, fig. 1, 102).

Gordon '375 fails to explicitly teach waiting for bandwidth availability and repeating the steps of providing requested information.

However, the above claimed limitations are well-known in the art as evidenced by Brown '530, in particular (i.e. col. 3, lines 30+ of Brown '530) teaches determining sufficient bandwidth for requested information and the step of repeating (iteration) would be necessary for the transmission process.

In view of the above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Gordon '375 as taught by Brown '530 for controlling the shared resources of the communication system.

Regarding claims 20 – 21, 26 – 27, 32 and 40 - 41, combination of Gordon '375 and Brown '530 teaches step of denying (i.e. col. 3, lines 58+ of Brown '530), and bandwidth determination made with respect to at least one of video

Art Unit: 2613

server bandwidth, video switch bandwidth, transport processor and digital video modulator bandwidth would have been obvious (i.e. col. 7, lines 8+ of Brown '530), and information type comprises one of video, audio (i.e. fig. 1, MPEG video, abstract, VOD, digital information, col. 1, lines 26+) and component loading levels are determined with respect to the type of information requested, reeds on col. 7, lines 8+ of Brown '530, since the reference teaches variable bandwidth for transmission base on the type of information requested.

Regarding claims 22 - 23, and 36 - 37, combination of Gordon '375 and Brown '530 teaches step of establishing a respective session and sufficient bandwidth to support the navigation information (i.e. fig. 1, 106 and col. 2, lines 40+), and requested information is stored in provider equipment (i.e. col. 7, lines 45+ of Gordon '375).

Regarding claims 24 and 38, combination of Gordon '375 and Brown '530 teaches request information to subscriber without qualitatively degrading requested information (i.e. col. 3, lines 25+ of Gordon '375).

Regarding claims 28 and 42, combination of Gordon '375 and Brown '530 teaches video formats having differing quality levels (i.e. col. 1, lines 20+ of Brown '530).

Regarding claim 31, the limitations claimed are substantially similar to claims 17, 18 and 30, therefore the grounds for rejecting claims 17, 18 and 30 also apply here.

Art Unit: 2613

Regarding claim 33, combination of Gordon '375 and Brown '530 teaches transport processor for packetizing information (i.e. fig. 1, col. 7, lines 40+ of Gordon '375).

Regarding claim 35, combination of Gordon '375 and Brown '530 teaches digital video modulator (i.e. fig. 2, DVM and col. 8, lines 15+ of Gordon '375).

Regarding claim 44, combination of Gordon '375 and Brown '530 teaches communication system and storage, that includes information distribution and transmission to subscriber base on the requested information (i.e. fig. 1, abstract of Gordon '375), and providing variable bandwidth (i.e. col. 7, lines 1+ of Brown '530), therefore it would have been obvious that the variable bandwidth depends on different encoded bit rate that depends on subscriber request.

5. Claims 25, 29, 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. (US 6,253,375) in view of Brown (US 5,822,530) further in view of Hang (US 5,115,309).

Regarding claims 25, 29, 39 and 43, combination of Gordon '375 and Brown '530 teaches request information to subscriber without qualitatively degrading requested information (i.e. col. 3, lines 25+ of Gordon '375).

Although, combination of Gordon '375 and Brown '530 fails to teach control bandwidth utilization levels.

However, the above claimed limitations are well-known in the art as evidenced by Hang '309, in particular (i.e. fig. 1, col. 1, lines 8+) teaches channel allocation to control bandwidth based upon expected component.

Art Unit: 2613

In view of the above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the combination system of Gordon '375 and Brown '530, as taught by Hang '309 for improving the system.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Behrooz Senfi** whose telephone number is **(703)305-0132**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chris Kelley** can be reached on **(703)305-4856**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal

Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relative to the status of the application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

B. S. B. P.

Application/Control Number: 09/406,353

Page 7

Art Unit: 2613

09/03/2002

A handwritten signature in black ink, appearing to read "Chris Kelley". The signature is fluid and cursive, with the first name "Chris" and last name "Kelley" clearly distinguishable.

CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600